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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 HASAN CARTER, et al.,

12 Plaintiffs,

13 v.

14 CHRISTINE GREGOIRE, et al.,

15 Defendants.

16 CASE NO. C9-5393BHS

17 ORDER GRANTING
18 PLAINTIFFS' MOTION FOR A
19 TEMPORARY RESTRAINING
20 ORDER

21 This matter comes before the Court on Plaintiff's Motion for a Temporary
22 Restraining Order (Dkt. 4). The Court has considered the pleadings filed in support of and
23 in opposition to the motion and the remainder of the file and hereby grants the motion for
24 the reasons stated herein.

25 **I. FACTUAL AND PROCEDURAL BACKGROUND**

26 On June 29, 2009, Plaintiffs filed a complaint for injunctive and declaratory relief
27 against Defendants. Dkt. 1 ("Complaint"). Plaintiffs also filed a Motion for Temporary
28 Restraining Order. Dkt. 2. On June 30, 2009, Defendants responded (Dkt. 19) and
 Plaintiffs filed an additional Memorandum in support of their motion (Dkt. 22).

1 Plaintiffs allege that the Washington Legislature passed, and Governor Christine
2 Gregoire signed into law, a statute that violates their federal constitutional rights.
3 Complaint, ¶¶ 35, 54. That law provides in relevant part as follows:

4 The [Washington Department of Social and Health Services (“DSHS”)]
5 shall not pay a home care agency licensed under chapter 70.127 RCW for
6 in-home personal care or respite services provided under this chapter, Title
7 71A RCW, or chapter 74.39 RCW if the care is provided to a client by a
family member of the client. To the extent permitted under federal law, the
provisions of this subsection shall not apply if the family member of the
family member providing care is older than the client.

8 Laws of 2009, ch. 571, § 1 (1)(a) (“SHB 2361”).

9 Defendants claim that:

10 The implementation of SHB 2361 will take time, because DSHS did
11 not receive lists of all clients affected by the changes until June 30, 2009,
12 and contacting each client, discussing their options, and executing IP
contracts for family members will take additional time. Additionally,
making changes effective the first of each month is less disruptive in terms
of employee benefits. For these reasons SHB 2361 will be phased in over
the months of July, August, and September 2009. We expect to complete
the phase-in by September 1, 2009.

14 Dkt. 21, Declaration of Chris Imhoff, ¶ 22.

15 On July 1, 2009, the Court held a hearing on Plaintiffs’ motion. At the hearing,
16 Defendants’ counsel confirmed that the first phase of SHB 2361 would not be
17 implemented until August 1, 2009. After the hearing, Plaintiffs filed a Supplemental
18 Brief Regarding Irreparable Harm Caused By Implementation of SHB 2361 on July 1,
19 2009. Dkt. 25. The Court held a conference call regarding the contents of this brief.
20 During the conference call, Defendants’ counsel informed the Court that implementation
21 of SHB 2361 was occurring today.

22 On July 1, 2009, Plaintiffs filed a Motion for Preliminary Injunction. Dkt. 26.

23 II. DISCUSSION

24 To be entitled to temporary injunction relief, a plaintiff “must establish that he is
25 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence
26 of preliminary relief, that the balance of equities tips in his favor, and that an injunction is
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1 in the public interest.” *Winter v. Nat. Res. Def. Council*, ____ U.S. ___, 129 S. Ct. 365,
2 374, 172 L. Ed. 2d 249 (2008).

3 In this case, Plaintiffs have shown that they are likely to succeed on the merits, that
4 they are likely to suffer irreparable harm in the absence of preliminary relief, that the
5 balance of equities tips in their favor, and that a temporary restraining order is in the
6 public interest. Therefore, the Court grants Plaintiffs’ motion.

7 With regard to Plaintiffs’ Motion for a Preliminary Injunction, the Court sets the
8 following briefing schedule:

9 Defendant’s response is due July 20, 2009

10 Plaintiffs’ reply is due July 24, 2009.

11 The Court will set a hearing on this motion for July 28, 2009 at 3:30 PM.

12 **III. ORDER**

13 Therefore, it is hereby

14 **ORDERED** that Plaintiff’s Motion for a Temporary Restraining Order (Dkt. 4) is
15 **GRANTED**. The temporary restraining order shall expire on July 29, 2009, or as
16 otherwise ordered by the Court.

17 DATED this 1st day of July, 2009.

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BENJAMIN H. SETTLE
United States District Judge